

ORIGINAL

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June 6, 1991

JUN 6 - 1991

LM 8036

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554


Attn: Chief, Policy and Rules Division

Dear Ms. Searcy:

Forwarded herewith is the Petition For Leave To File
Supplement to Petition For Reconsideration filed on behalf of
Dowagiac Broadcasting Company, Inc.

Should there be any questions concerning this matter,
please communicate directly with the undersigned.

Very truly yours,


Leonard S. Joyce

No of Copies 014

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

ORIGINAL

In the matter of)
)
Amendment of §73.202(b))
Table of Allotments)
FM Broadcast Stations)
)
(Rochester, Indiana))

RM No. 8036

RECEIVED

To: Chief, Policy and Rules Division

JUN 6 - 1991

Petition For Leave To File Supplement To
Petition For Reconsideration

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dowagiac Broadcasting Company, Inc., (Dowagiac Broadcasting) licensee of Station WDOF-FM Dowagiac, Michigan, by and through counsel, hereby requests leave to file this Supplement to its May 31, 1991 "Petition for Reconsideration" in the above captioned proceeding. In support hereof the following matters are set forth.

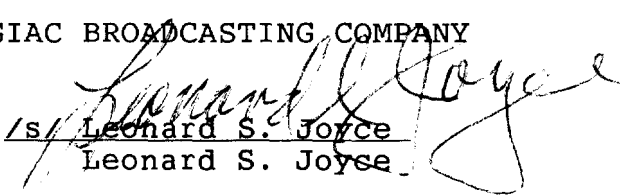
1. On May 31, 1991, Dowagiac Broadcasting filed a Petition for Reconsideration of the Commission's action of May 1, 1991, returning as unacceptable, Dowagiac Broadcasting's January 8, 1991 Petition for Rule Marking proposing to substitute FM Channel 229A for Channel 221A at Rochester, Indiana, and, to concurrently modify the license of Station WROI(FM) Rochester, Indiana to specify operation on Channel 229A in lieu of Channel 221A.

2. Attached to said Petition for Reconsideration, as Appendix B, was an Engineering Statement of Dowagiac Broadcasting's Consulting Engineer dated May 29, 1991. The signature of the Consulting Engineer was a telecopier signature.

3. The original of the Consulting Engineer's signature was sent to the undersigned by mail, and it, together with the complete Engineering Statement is attached to the original of this Supplement. There are no changes, whatever, in the Engineering Statement; the sole purpose of this Supplement is to supply the original signature of the Consulting Engineer. Thus, good cause exists for the acceptance of this Supplement.

Respectfully Submitted,

DOWAGIAC BROADCASTING COMPANY

By:  /s/ Leonard S. Joyce
Leonard S. Joyce

1825 K Street
Suite 510
Washington, D.C. 20006

June 6, 1991

APPENDIX B

Original Signature

Dowagiac Broadcasting Co. Inc.
Post Office Box 150
Dowagiac, Michigan 49047

PETITION FOR RECONSIDERATION

FM Channel 22.1A⁺
Dowagiac, Michigan
May 1991

STATE OF ILLINOIS }
 }
COUNTY OF PEORIA } SS:

F. W. Hannel, after being duly sworn upon oath, deposes and states:

He is a registered Professional Engineer, by examination, in the State of Illinois;

He is a graduate Electrical Engineer, holding Bachelor of Science and Master of Science degrees, both in Electrical Engineering;

His qualifications are a matter of public record and have been accepted in prior filings and appearances requiring scrutiny of his professional qualifications;

The attached Engineering Report was prepared by him personally or under his supervision and direction and;

The facts stated herein are true, correct, and complete to the best of his knowledge and belief.


F. W. Hannel, P.E.

F. W. Hannel, PE
911 Edward Street
Henry, Illinois 61537
(309) 364-3903

May 29, 1991.

Dowagiac Broadcasting Co. Inc.
Post Office Box 150
Dowagiac, Michigan 49047

PETITION FOR RECONSIDERATION
FM Channel 221A⁺
Dowagiac, Michigan
May 1991

ENGINEERING STATEMENT

This firm has been retained by Dowagiac Broadcasting Co. Inc., licensee of Radio Station WDOF(FM), Dowagiac, Michigan, to prepare this engineering statement in support of its Petition For Reconsideration of a staff action which returned the Petition For Rulemaking filed by Radio Station WDOF(FM), Dowagiac, Michigan. The Petition For Rulemaking sought the assignment of a fully spaced FM Channel [229A] to the community of Rochester, Indiana, to replace the presently assigned short spaced FM Channel 221A. The net result of this channel substitution would be the allotment of a fully spaced Class A channel 221A to Dowagiac, Michigan, as well as the allotment of a fully spaced Class A channel 229A to Rochester, Indiana. The return letter indicated that since WROI(FM), Rochester, Indiana, was not operating as a grandfathered short-spaced Class A facility, the requested changes simply amounted to a site preference accommodation for Radio Station WDOF(FM), and, as such, the petition was not acceptable for filing. By Public Notice dated February 11, 1991, released in connection with MM Docket 88-375, the Commission released a list of facilities that were identified as "newly Grandfathered Class A Stations", and that list contained the facilities of both WROI(FM) in Rochester, Indiana, and the facilities of Radio Station WDOF(FM), Dowagiac, Michigan. This list, then, clearly establishes that the respective facilities are grandfathered short-spaced facilities, and it is clear that the Commission was

in error in its statement that WROI(FM) was not operating as a grandfathered class A facility. As is more fully described below, the changes requested in the original petition result in the removal of several short-spacings in the FM Table of Allotments that were created when the Commission authorized the use of new mileage separation requirements for 6 kw Class A facilities.

An examination of the mileage separations that exist for the presently assigned FM Channel 221A at Dowagiac, Michigan, reveals that it is 5.2 miles short-spaced to Radio Station WROI(FM), Rochester, Indiana, at a bearing of 189 degrees. In addition, WDOW(FM), is short-spaced 4.7 miles to the allotment co-ordinates for FM Channel channel 222A at Allegan, Michigan. Consequently, no area exists that would allow the present facilities of Radio Station WDOW(FM) to operate at 6 kilowatts.

The proposed relocation of the presently assigned FM Channel 221A at Rochester, Indiana, to FM Channel 229A removes two short-spacings for that facility. The present operation of Radio Station WROI(FM), Rochester, Indiana, is short-spaced to Radio Station WVSH(FM), Huntington, Indiana, and to Radio Station WDOW(FM), Dowagiac, Michigan. Thus, with WROI(FM) operating on FM Channel 229A, both WDOW(FM) and WROI(FM) can operate with 6 kw for each is a fully spaced Class A allotment.

The public interest is well served by the adoption of the changes proposed by Radio Station WDOW(FM). A number of short-spacings are eliminated, no community is deprived of a service, and the FM Table of Allotments is not materially affected by the adoption of the proposed changes.

Chan	Freq	Call	City	St	Status	File	Latitude	Longitude	Border	Old ERP (kw)	HAAT (m)	New ERP (kw)
221A	92.1	WBSTFM	MUNCIE	IN	LIC	BLED781211AR	40-12-48.0	85-27-36.0	Can	3.000	91.	3.300
221A	92.1	WROI	ROCHESTER	IN	LIC	BLH810904AC	41-03- 2.0	86-15-39.0	Can	3.000	61.	4.300
221A	92.1	WDOWFM	DOWAGIAC	MI	LIC	BLH7206	41-59-52.0	86-03-14.0	Can	3.000	91.	3.300
221A	92.1	WGHNFM	GRAND HAVEN	MI	LIC	BLH861110KA	43-03-23.0	86-14-27.0	Can	3.000	75.	3.800
221A	92.1	WGOFM	ST. JOHNS	MI	LIC	BLH830301AJ	42-53-29.0	84-34-27.0	Can	3.000	91.	3.300
221A	92.1	WSNU	LOCK HAVEN	PA	LIC	BLH780725AE	41-08-49.0	77-29-16.0	Can	3.000	70.	4.000
221A	92.1	WRLSFM	MAYWARD	WI	LIC	BLH3994	46-01-17.0	91-30-41.0	Can	3.000	91.	3.300
224A	92.7	WZMZ	KOKOMO	IN	LIC	BLH860127KD	40-28-18.0	86-09-52.0	Can	3.000	91.	3.300
224A	92.7	WQYFM	CALAIS	ME	LIC	BLH6945	45-10- 2.0	67-16-38.0	Can	3.000	91.	3.300
+224A	92.7	WJJOFM	TOMAHAWK	WI	LIC	BLH841126LP	45-29-27.0	89-43-33.0	Can	3.000	79.	3.600
227A	93.3	WCAN	CANAJOHARIE	NY	LIC	BLED871030KC	42-53-46.0	74-35-45.0	Can	3.000	82.	3.500
228A	93.5	WRVW	HUDSON	NY	LIC	BLH6545	42-15-13.0	73-45-45.0	Can	3.000	-5.	5.800
+228A	93.5	WQYX	CLEARFIELD	PA	LIC	BLH4165	41-02-32.0	78-26-54.0	Can	3.000	30.	5.800
233A	94.5	WRAV	RAVENA	NY	CP	BPH870813MB	42-32-46.0	73-48-31.0	Can	3.000	85.	3.400
+233A	94.5	WHWBFM	RUTLAND	VT	LIC	BLH890504KA	43-36-49.0	73-01-33.0	Can	3.000	-73.	5.800
237A	95.3	KPND	SANDPOINT	ID	LIC	BLH800515AG	48-16-12.0	116-33-35.0	Can	1.000	-131.	5.800
237A	95.3	WJBIFM	WINSLOW	ME	CP	BPH880122MS	44-28-32.0	69-34-26.0	Can	3.000	94.	3.200
237A	95.3	WAOR	NILES	MI	LIC	BLH810312AA	41-49-22.0	86-17- 3.0	Can	3.000	91.	3.300
237A	95.3	WDNHFM	HONESDALE	PA	LIC	BLH840625BY	41-34-23.0	75-11-30.0	Can	3.000	78.	3.700
237A	95.3	WTTCFM	TOWANDA	PA	LIC	BLH7188	41-45-55.0	76-29-10.0	Can	3.000	38.	5.400
237A	95.3	WKXEFM	WHITE RIVER JUNVT	LIC		BLH7184	43-39-14.0	72-17-43.0	Can	3.000	75.	3.800
237A	95.3	WGMO	SHELL LAKE	WI	LIC	BLH6586	45-40-26.0	91-58-43.0	Can	3.000	91.	3.300
238A	95.5	WKHLFM	SALLADASBURG	PA	CP	BPH870916MA	41-14- 0.0	77-12- 9.0	Can	3.000	73.	3.900
240A	95.9	WKUZ	WABASH	IN	LIC	BLH3195	40-50- 0.0	85-47-11.0	Can	3.000	46.	5.000
240A	95.9	WHYR	SACO	ME	LIC	BLH820803AI	43-33-24.0	70-30-31.0	Can	3.000	91.	3.300
240A	95.9	WVOSFM	LIBERTY	NY	LIC	BLH781023AF	41-45- 9.0	74-43- 1.0	Can	3.000	91.	3.300
240A	95.9	WYANFM	UPPER SANDUSKY	OH	LIC	BLH861010KD	40-49-30.0	83-15- 6.0	Can	3.000	91.	3.300
241A	96.1	WHYB	PESHTIGO	WI	CP	BPH881024MB	45-05-58.0	87-40-35.0	Can	3.000	70.	4.000
243A	96.5	WUBU	PORTAGE	MI	CP	BPH851022MO	42-12-55.0	85-36-37.0	Can	3.000	98.	3.100
243A	96.5	NEW	BEDFORD	NH	CP	BPH860804MF	42-56-38.0	71-34-53.0	Can	3.000	56.	4.500
244A	96.7	WCOE	LA PORTE	IN	LIC	BLH2496	41-37-55.0	86-45-43.0	Can	3.000	81.	3.600
244A	96.7	WTSX	PORT JERVIS	NY	LIC	BLH4949	41-22-24.0	74-43-49.0	Can	3.000	91.	3.300
244A	96.7	KREWFEM	SUNNYSIDE	WA	LIC	BLH6308	46-19-10.0	120-01-28.0	Can	3.000	0.	5.800
249A	97.7	WRRK	MANISTEE	MI	LIC	BLH4835	44-14- 7.0	86-19- 5.0	Can	3.000	47.	4.900
249A	97.7	WRKK	JERSEY SHORE	PA	LIC	BLH790809AG	41-13-14.0	77-16-39.0	Can	3.000	91.	3.300
249A	97.7	WVSCFM	SOMERSET	PA	LIC	BLH3311	40-01-31.0	79-05-42.0	Can	3.000	82.	3.500
249A	97.7	KYSN	EAST WENATCHEE	WA	LIC	BLH811009AK	47-22-52.0	120-17-16.0	Can	3.000	-46.	5.800
252A	98.3	WHAIFM	GREENFIELD	MA	LIC	BLH840130AC	42-35-20.0	72-37- 5.0	Can	3.000	-73.	5.800
252A	98.3	WLCS	NORTH MUSKEGON	MI	LIC	BLH831223AE	43-16-34.0	86-14-45.0	Can	2.600	98.	3.100
252A	98.3	WCSYFM	SOUTH HAVEN	MI	LIC	BLH811203AI	42-18- 2.0	86-15- 3.0	Can	3.000	91.	3.300
252A	98.3	WWBE	MIFFLINBURG	PA	LIC	BLH880617KC	40-54-52.0	77-02-25.0	Can	3.000	46.	5.000
252A	98.3	KEYW	PASCO	WA	LIC	BLH860701KA	46-08-48.0	119-05-59.0	Can	3.000	60.	4.400
257A	99.3	WKVIFM	KNOX	IN	LIC	BLH4449	41-19-20.0	86-36-17.0	Can	3.000	91.	3.300
257A	99.3	WHMPFM	NORTHAMPTON	MA	LIC	BLH861215KC	42-22-29.0	72-40-24.0	Can	3.000	98.	3.100
257A	99.3	WFRD	HANOVER	NH	LIC	BLH6980	43-39-14.0	72-17-43.0	Can	3.000	87.	3.400
257A	99.3	WQKY	EMPORIUM	PA	LIC	BLH850530KC	41-30-22.0	78-13-26.0	Can	3.000	-150.	5.800
257A	99.3	KBSNFM	MOSES LAKE	WA	LIC	BLH801112AJ	47-05-54.0	119-17-47.0	Can	3.000	61.	4.300
261A	100.1	WSHNFM	FREMONT	MI	LIC	BLH801209AE	43-28-15.0	85-56-25.0	Can	2.750	90.	3.300
261A	100.1	WDST	WOODSTOCK	NY	LIC	BLH821012AM	41-59- 4.0	74-02-56.0	Can	2.900	94.	3.200
265A	100.9	WQIX	HORSEHEADS	NY	LIC	BLH4819	42-12- 0.0	76-51-30.0	Can	3.000	75.	3.800
265A	100.9	WMQC	WESTOVER	WV	LIC	BLH830117AQ	39-32-44.0	79-55-58.0	Can	3.000	81.	3.600
268A	101.5	WWSS	MEREDITH	NH	LIC	BLH881129KA	43-38-28.0	71-29-53.0	Can	3.000	92.	3.200
269A	101.7	WHUG	JAMESTOWN	NY	LIC	BLH5441	42-07-55.0	79-13- 9.0	Can	2.900	91.	3.300
269A	101.7	WVCC	LINESVILLE	PA	LIC	BLH4755	41-40-48.0	80-27-12.0	Can	3.000	67.	4.100
272A	102.3	WLHM	LOGANSPOUT	IN	LIC	BLH4260	40-45-16.0	86-18-40.0	Can	3.000	91.	3.300
276A	103.1	WBHV	STATE COLLEGE	PA	LIC	BMLH810402AC	40-48-32.0	77-50-28.0	Can	3.000	-17.	5.800
278A	103.5	WNNRFM	SODUS	NY	CP	BPH871110MH	43-16- 5.0	77-09-40.0	Can	3.000	74.	3.800
280A	103.9	WCJLFM	MENOMINEE	MI	LIC	BMLH870326KL	45-04- 0.0	87-39-55.0	Can	3.000	91.	3.300

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-14

In the Matter of

Amendment of Section 73.202(b), RM-7193
Table of Allotments,
FM Broadcast Stations.
(Eldorado and Lawton, Oklahoma)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 29, 1990; Released: November 14, 1990

By the Assistant Chief, Policy and Rules Division:

1. At the request of Communicorp, Inc. (petitioner), licensee of Station KQLI(FM), Channel 232A, Lawton, Oklahoma, the Commission has before it the *Notice of Proposed Rule Making*, 5 FCC Rcd 618 (1990), proposing the substitution of Channel 246A for unoccupied and unapplied for Channel 232A at Eldorado, Oklahoma. Petitioner requests the substitution of channels at Eldorado so that it can upgrade Station KQLI(FM) from its present power of 3 kW to 6 kW. Petitioner filed comments reiterating its intention to apply for an increase in power to 6 kW if Channel 246A is allotted to Eldorado. No other comments were received.

2. Petitioner alternatively proposed in its petition for rule making that Station KQLI(FM) be upgraded by substituting Channel 232C3 for Channel 232A at Lawton. The Commission stated in the *Notice* that Channel 232C3 could not be allotted to Lawton in compliance with the Commission's minimum distance separation requirements because of short-spacings to Station KSEY(FM), Seymour, Texas, Station KDGE(FM), Gainesville, Texas, and Station KICZ(FM), Elk City, Oklahoma. Even though we recognized that the construction permit for Station KICZ(FM) had expired, we stated that a Channel 232C3 allotment at Lawton would still be required to protect the Elk City allotment since no request to delete the channel had been included in petitioner's proposal. In its comments, petitioner counterproposes the allotment of Channel 232C3 to Lawton by deleting Channel 232A at Elk City, stating that the channel has remained unused since the expiration of Station KICZ(FM)'s construction permit.

3. We believe the public interest would be served by substituting Channel 246A for unoccupied and unapplied for Channel 232A at Eldorado, Oklahoma, since it could enable Lawton to receive a 6 kW Class A allotment. Channel 246A can be allotted to Eldorado in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.¹ We will not, however, consider petitioner's counterproposal to substitute Channel 232C3 for Channel 232A at Lawton. Petitioner failed to submit any technical showing demonstrating that its proposed allotment of Channel

232C3 at Lawton complies with the Commission's minimum distance separation requirements. As the Commission has previously stated, counterproposals must be technically correct and substantially complete when filed in order to afford all parties an opportunity to fully respond in reply comments. See *Springdale, Arkansas, et al.*, 4 FCC Rcd 674 (1988), *recon. denied*, 5 FCC Rcd 1241 (1990); *Rockport, Texas, et al.*, 4 FCC Rcd 8075 (1989); and *Broken Arrow, Oklahoma*, 3 FCC Rcd 6507 (1988).

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 31, 1990, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Eldorado, Oklahoma	246A

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Beverly McKittrick
Assistant Chief
Policy and Rules Division
Mass Media Bureau

FOOTNOTE

¹ The coordinates for Channel 246A at Eldorado are North Latitude 34-28-24 and West Longitude 99-38-54.

CERTIFICATE OF SERVICE

I, Snowden Dove, a secretary in the law firm of Blair, Joyce & Silva, do hereby certify that the foregoing Petition For Leave To File Supplement To Petition for Reconsideration was served this 6th day of June, 1991, by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:

James Zimmerman, President
Station WROI(FM)
100 W. Ninth Street
Suite 306
Rochester, Indiana 46975

/s/_____
Snowdeen Dove